

SECOND REGULAR SESSION

SENATE BILL NO. 1203

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOUGHERTY.

Read 1st time March 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4551S.03I

AN ACT

To repeal sections 144.030, 640.150 and 640.653, RSMo, and to enact in lieu thereof twenty-seven new sections relating to energy, with an expiration date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 144.030, 640.150 and 640.653, RSMo, are repealed and
2 twenty-seven new sections enacted in lieu thereof, to be known as sections
3 135.563, 135.564, 135.565, 144.030, 386.269, 393.318, 393.320, 640.150, 640.151,
4 640.690, 640.692, 640.693, 640.694, 640.760, 640.762, 640.764, 640.766, 640.768,
5 640.770, 640.772, 640.774, 640.776, 640.778, 640.780, 640.782, 640.784, and
6 643.622, to read as follows:

135.563. 1. This section shall be known and may be cited as the
2 **"Residential Alternative Energy Tax Credit Program".**

3 **2. As used in this section, the following terms mean:**

4 **(1) "Department", the department of revenue;**

5 **(2) "Director", the director of the department of revenue;**

6 **(3) "Eligible costs", expenses incurred by a taxpayer for the**
7 **purchase and installation of solar electric panels, energy-efficient**
8 **appliances and energy-efficient heating and cooling systems denoted by**
9 **the Energy Star label, and energy-efficient windows at such taxpayer's**
10 **primary residence that are not covered by an existing federal, state, or**
11 **local program;**

12 **(4) "Tax liability", the tax due under chapter 143, RSMo, other**
13 **than taxes withheld under sections 143.191 to 143.265, RSMo; and**

14 **(5) "Taxpayer", any noncorporate taxpayer.**

15 **3. If any taxpayer with a federal adjusted gross income of thirty**

16 thousand dollars or less incurs eligible costs for the installation of solar
17 electric panels, energy-efficient appliances and energy-efficient heating
18 and cooling systems denoted by the Energy Star label, developed by the
19 United States Environmental Protection Agency, and energy-efficient
20 windows, such taxpayer shall receive a tax credit against such
21 taxpayer's Missouri income tax liability in an amount equal to the
22 lesser of one hundred percent of such costs or one thousand
23 dollars. Tax credits issued under this subsection are not refundable.

24 4. In no event shall the aggregate amount of all tax credits
25 allowed under this section exceed fifty thousand dollars per fiscal
26 year. The tax credits issued under this section will be on a first-come,
27 first-served filing basis.

28 5. A taxpayer shall claim a credit allowed by this section in the
29 same taxable year as the eligible costs are incurred and at the time
30 such taxpayer files his or her Missouri income tax return, provided that
31 such return is filed in a timely manner.

32 6. The department may promulgate such rules or regulations as
33 are necessary to administer the provisions of this section. Any rule or
34 portion of a rule, as that term is defined in section 536.010, RSMo, that
35 is created under the authority delegated in this section shall become
36 effective only if it complies with and is subject to all of the provisions
37 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
38 section and chapter 536, RSMo, are nonseverable and if any of the
39 powers vested with the general assembly pursuant to chapter 536,
40 RSMo, to review, to delay the effective date, or to disapprove and annul
41 a rule are subsequently held unconstitutional, then the grant of
42 rulemaking authority and any rule proposed or adopted after August
43 28, 2006, shall be invalid and void.

44 7. The provisions of this section shall apply to all tax years
45 beginning on or after January 1, 2007.

46 8. The provisions of this section shall not apply to section 23.253,
47 RSMo, of the Missouri sunshine act.

135.564. 1. This section shall be known and may be cited as the
2 "Residential Hybrid Vehicle Tax Credit Program".

3 2. As used in this section, the following terms mean:

4 (1) "Alternative fuel", compressed natural gas, propane, ethanol,
5 or any mixture of ethanol containing eighty-five percent or more

6 ethanol by volume with gasoline or other fuels, electricity, or any other
7 fuels, which may include but shall not be limited to, clean diesel and
8 reformulated gasoline so long as these fuels make comparable
9 reductions in carbon monoxide emissions as determined by the
10 department of natural resources. For the purpose of this section,
11 alternative fuel shall not include any fuel product that contains or is
12 treated with methyl tertiary butyl ether (MTBE);

13 (2) "Department", the department of revenue;

14 (3) "Director", the director of the department of revenue;

15 (4) "Eligible costs", expenses incurred by a taxpayer for the
16 purchase of a hybrid vehicle, as these vehicles are defined in this
17 section;

18 (5) "Hybrid vehicle", a motor vehicle with a hybrid propulsion
19 system that uses an alternative fuel by operating on both an alternative
20 fuel, including electricity, and a traditional fuel;

21 (6) "Tax liability", the tax due under chapter 143, RSMo, other
22 than taxes withheld under sections 143.191 to 143.265, RSMo; and

23 (7) "Taxpayer", any noncorporate taxpayer.

24 3. If any taxpayer with a federal adjusted gross income of thirty
25 thousand dollars or less incurs eligible costs for the purchase of a
26 hybrid vehicle, such taxpayer shall receive a tax credit against such
27 taxpayer's Missouri income tax liability in an amount equal to the
28 lesser of fifty percent of such costs or five hundred dollars. Tax credits
29 issued under this subsection are not refundable.

30 4. In no event shall the aggregate amount of all tax credits
31 allowed under this section exceed fifty thousand dollars per fiscal
32 year. The tax credits issued under this section will be on a first-come,
33 first-served filing basis.

34 5. A taxpayer shall claim a credit allowed by this section in the
35 same taxable year as the eligible costs are incurred and at the time
36 such taxpayer files his or her Missouri income tax return, provided that
37 such return is filed within six months after purchasing the vehicle.

38 6. The department may promulgate such rules or regulations as
39 are necessary to administer the provisions of this section. Any rule or
40 portion of a rule, as that term is defined in section 536.010, RSMo, that
41 is created under the authority delegated in this section shall become
42 effective only if it complies with and is subject to all of the provisions

43 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
44 section and chapter 536, RSMo, are nonseverable and if any of the
45 powers vested with the general assembly pursuant to chapter 536,
46 RSMo, to review, to delay the effective date, or to disapprove and annul
47 a rule are subsequently held unconstitutional, then the grant of
48 rulemaking authority and any rule proposed or adopted after August
49 28, 2006, shall be invalid and void.

50 7. The provisions of this section shall apply to all tax years
51 beginning on or after January 1, 2007.

52 8. The provisions of this section shall not apply to section 23.253,
53 RSMo, of the Missouri sunshine act.

135.565. 1. This section shall be known and may be cited as the
2 "Green Building Tax Credit".

3 2. As used in this section the following terms mean:

4 (1) "Allowable costs", amounts properly chargeable to a capital
5 account, other than for land, that are paid or incurred on or after July
6 1, 2006, for all of the following:

7 (a) Construction or rehabilitation;

8 (b) Commissioning costs;

9 (c) Interest paid or incurred during the construction or
10 rehabilitation period;

11 (d) Architectural, engineering, and other professional fees
12 allocable to construction or rehabilitation;

13 (e) Closing costs for construction, rehabilitation, or mortgage
14 loans;

15 (f) Recording taxes and filing fees incurred with respect to
16 construction or rehabilitation; and

17 (g) Finishes and furnishings consistent with rules adopted by the
18 department under this chapter, lighting, plumbing, electrical wiring,
19 and ventilation;

20 For the purpose of this section "allowable costs" shall not include any
21 of the following:

22 (h) The cost of telephone systems and computers other than
23 electrical wiring costs;

24 (i) Legal fees allocable to construction or rehabilitation;

25 (j) Site costs, including temporary electric wiring, scaffolding,
26 demolition costs, and fencing and security facilities;

27 **(k) Finishes or furnishings that are not consistent with rules**
28 **adopted by the department under this chapter; and**

29 **(l) The cost of purchasing or installing fuel cells;**

30 **(2) "Base building", all areas of a building not intended for**
31 **occupancy by a tenant or owner, including the structural components**
32 **of the building, exterior walls, floors, windows, roofs, foundations,**
33 **chimneys and stacks, parking areas, mechanical rooms and mechanical**
34 **systems, and owner-controlled or operated service spaces, sidewalks,**
35 **main lobby, shafts and vertical transportation mechanisms, stairways,**
36 **and corridors;**

37 **(3) "Brownfield site", real property, the expansion,**
38 **redevelopment, or reuse of which may be complicated by the presence**
39 **or potential presence of a hazardous substance, pollutant, or**
40 **contaminant;**

41 **(4) "Commissioning", all of the following:**

42 **(a) The testing and fine-tuning of heat, ventilating, and air-**
43 **conditioning systems and other systems to assure proper functioning**
44 **and adherence to design criteria; and**

45 **(b) The preparation of system operation manuals and instruction**
46 **of maintenance personnel;**

47 **(5) "Credit allowance year", the later of either of the following:**

48 **(a) The taxable year during which either of the following occur:**

49 **a. The property, construction, completion, or rehabilitation on**
50 **which the credit allowed under this section is based is originally placed**
51 **in service; or**

52 **b. A fuel cell, wind turbine, or photovoltaic module constitutes**
53 **a qualifying alternate energy source under subsection 15 of this section**
54 **and is fully operational; or**

55 **(b) The earliest taxable year for which the credit may be claimed**
56 **under the green building tax credit certificate issued under this**
57 **section;**

58 **(6) "Department", the department of revenue;**

59 **(7) "Economic development area", an area as defined by rule by**
60 **the department;**

61 **(8) "Eligible building", a building located in this state that meets**
62 **all of the following requirements:**

63 **(a) Is a building used primarily for nonresidential purposes if**

64 the building contains at least twenty thousand square feet of interior
65 space;

66 (b) Is a residential multifamily building with at least twelve
67 dwelling units that contains at least twenty thousand square feet of
68 interior space;

69 (c) Is any combination of buildings described in subparagraphs
70 a. and b.;

71 (d) In the case of a newly constructed building for which a
72 certificate of occupancy was not issued before July 1, 2006, is any of the
73 following:

74 a. Is located on a brownfield site;

75 b. Is located in a priority funding area as defined by the
76 department; and

77 c. Is not located on wetlands, the alteration of which requires a
78 permit under Section 404 of the federal Clean Water Act, 33 U.S.C.
79 Section 1344;

80 (e) In the case of the rehabilitation of a building, is any of the
81 following:

82 a. Is located in a priority funding area as defined by the director
83 or on a brownfield site; and

84 b. Is not an increase of more than twenty-five percent in the
85 square footage of the building;

86 (9) "Fuel cell", a device that produces electricity directly from
87 hydrogen or hydrocarbon fuel through a noncombustive
88 electrochemical process that meets the minimum standards adopted by
89 rule under this section;

90 (10) "Green base building", a base building that is part of an
91 eligible building that meets the LEED silver rating standard of the
92 United States green building council adopted by rule under this
93 section;

94 (11) "Green whole building", a building for which the base
95 building is a green base building and all tenant space is green tenant
96 space;

97 (12) "Green tenant space", tenant space in a building if the
98 building is an eligible building and the tenant space that meets the
99 LEED silver rating standard of the United States green building council
100 adopted by rule under this section;

101 **(13) "Incremental cost of building-integrated photovoltaic**
102 **modules", all of the following:**

103 **(a) The cost of building-integrated photovoltaic modules and any**
104 **associated inverter, additional wiring, or other electrical equipment for**
105 **the photovoltaic modules, or additional mounting or structural**
106 **materials, less the cost of spandrel glass or other building material that**
107 **would have been used if building-integrated photovoltaic modules were**
108 **not installed; and**

109 **(b) Incremental labor costs properly allocable to on-site**
110 **preparation, assembly, and original installation of photovoltaic**
111 **modules.**

112 **(14) "LEED silver standard", the United States green building**
113 **council leadership in energy and environmental design green building**
114 **rating standard, referred to as silver standard;**

115 **(15) "Photovoltaic modules", semiconductor devices, also called**
116 **solar cells, that convert sunlight into direct current electricity that**
117 **meet the minimum standards adopted by rule under this section;**

118 **(16) "Qualifying alternate energy source", a building-integrated**
119 **and non building-integrated photovoltaic module, wind turbine, or fuel**
120 **cell installed to serve the base building or tenant space that meet all of**
121 **the following requirements:**

122 **(a) Have the capability to monitor their actual power output;**

123 **(b) Are fully commissioned upon installation, and annually**
124 **thereafter, to ensure that the systems meet their design specifications;**
125 **and**

126 **(c) In the case of a wind turbine, meets any applicable noise and**
127 **bird protection ordinances;**

128 **(17) "Tenant improvements", improvements that are necessary or**
129 **appropriate to support or conduct the business of a tenant or**
130 **occupying owner;**

131 **(18) "Tenant space", the portion of a building intended for**
132 **occupancy by a tenant or occupying owner;**

133 **(19) "Wind turbine", a wind energy conversion system that**
134 **collects and converts wind into energy to generate electricity that**
135 **meets the minimum standards adopted by rule under this section.**

136 **3. A person may apply to the department for a provisional green**
137 **building certificate by submitting a completed application to the**

138 department containing all of the following information:

139 (1) Sufficient information to identify each building or space as
140 the department shall require by rule;

141 (2) Proof of the person's ownership or tenancy of the building;

142 (3) An itemization of estimated allowable costs with supporting
143 documentation; and

144 (4) Any other information the department may require.

145 4. The department shall have the authority to reject or approve
146 any such application and shall promulgate rules governing the process
147 by which all applications and certificates are submitted, approved or
148 rejected. In the event the department approves the application, a
149 provisional green building certificate shall be issued by the
150 department. The provisional green building certificate shall describe
151 the property for which the certificate was issued and shall contain an
152 expiration date. The certificate shall apply only to property placed in
153 service by such expiration date which may be extended at the
154 discretion of the department, in order to avoid unwarranted hardship.

155 5. For each taxable year for which a person claims a green
156 building tax credit under this section, the person shall obtain from an
157 architect or professional engineer licensed to practice in this state an
158 eligibility certificate. Such certificate shall consist of a certification,
159 under the seal of such architect or engineer, that the building, base
160 building, or tenant space with respect to which the tax credit is
161 claimed is a green whole building, green base building, or green tenant
162 space, respectively, that the fuel cell, wind turbine, or photovoltaic
163 modules constitute a qualifying alternate energy source and remains
164 in service. The eligibility certification shall be made in accordance
165 with the standards and guidelines in effect at the time the property
166 which is the basis for the credit was placed in service adopted by rule
167 under this section. The eligibility certificate shall set forth the specific
168 findings upon which the certification was based. The eligibility
169 certificate shall include sufficient information to identify each building
170 or space, and such other information as the department shall require.

171 6. The taxpayer shall file a copy of each eligibility certificate
172 with the department.

173 7. A green building tax credit may consist of any or all of the
174 following credits:

175 (1) The green whole building credit shall be equal to the one and
176 four-tenths percent of the allowable costs paid or incurred by the
177 applicant, for either the construction of a green whole building or the
178 rehabilitation of a building that is not a green whole building to be a
179 green whole building for which a certificate of occupancy has been
180 issued. If the building is located in an economic development area, the
181 applicable percentage shall be one and six-tenths percent of the
182 allowable costs. The allowable costs for a green whole building shall
183 not exceed, in the aggregate, one hundred fifty dollars per square foot
184 with respect to the portion of the building that comprises the base
185 building and seventy-five dollars per square foot with respect to the
186 portion of the building that comprises the tenant space;

187 (2) The green base building credit shall be equal to one percent
188 of the allowable costs paid or incurred by the taxpayer, if the owner,
189 for either the construction of a green base building or for the
190 rehabilitation of a base building that is not a green base building to be
191 a green base building for which a certificate of occupancy for the
192 building has been issued. If the building is located in an economic
193 development area, the applicable percentage shall be one and two-
194 tenths percent of the allowable costs. The allowable costs for the base
195 building shall not exceed, in the aggregate, one hundred fifty dollars
196 per square foot;

197 (3) The green tenant space credit shall be equal to one percent
198 of allowable costs for tenant improvements paid or incurred by the
199 taxpayer in constructing or completing tenant space, or rehabilitating
200 tenant space that is not green tenant space to be green tenant space. If
201 the building is located in an economic development area the applicable
202 percentage shall be one and two-tenths percent of the allowable
203 costs. However, the owner, or a tenant who occupies fewer than ten
204 thousand square feet, shall qualify for such green tenant space credit
205 component only in the event that the base building is a green base
206 building. The allowable costs for tenant space shall not exceed, in the
207 aggregate, seventy-five dollars per square foot. In the event that both
208 an owner and tenant incur such costs for tenant space with respect to
209 the same tenant space and such costs in the aggregate exceed seventy-
210 five dollars per square foot, the owner shall have priority as to costs
211 constituting the basis for the green tenant space credit component;

212 (4) A fuel cell credit shall be allowed for the installation of a fuel
213 cell that is a qualifying alternate energy source, installed to serve a
214 green building, green base building or green tenant space. The amount
215 of the credit shall equal six percent of the sum of the capitalized costs
216 paid or incurred by the applicant with respect to each fuel cell
217 installed to serve such building or space, including the cost of the
218 foundation or platform and the labor cost associated with installation,
219 such capitalized costs not to exceed one thousand dollars per kilowatt
220 of installed direct current rated capacity. The amount of any federal,
221 state, or local grant received by the applicant and used for the
222 purchase and installation of such fuel cell and that was not included in
223 the federal gross income of the applicant shall be subtracted from the
224 amount of such cost;

225 (5) A photovoltaic module credit component shall be allowed for
226 the installation of photovoltaic modules that constitute a qualifying
227 alternate energy source installed to serve a green building, green base
228 building, or green tenant space. The amount of the credit component
229 shall equal twenty percent of the incremental cost paid or incurred by
230 the applicant for building-integrated photovoltaic modules and five
231 percent of the cost of non-building-integrated photovoltaic modules, in
232 either case such cost not to exceed the product of three dollars and the
233 number of watts included in the direct current rated capacity of the
234 photovoltaic modules. The amount of any federal, state, or local grant
235 received by the applicant and used for the purchase and installation of
236 such photovoltaic equipment and that was not included in the federal
237 gross income of the applicant shall be subtracted from the amount of
238 such cost; and

239 (6) A wind turbine credit shall be allowed for the installation of
240 a wind turbine that is a qualifying alternative energy source and is
241 installed to serve a green whole building, green base building, or green
242 tenant space. The amount of the credit shall be an amount equal to
243 twenty-five percent of the sum of the capitalized costs paid or incurred
244 by the applicant with respect to each wind turbine installed, including
245 the cost of the foundation or platform and the labor costs associated
246 with installation. The amount of any federal, state, or other grant
247 received by the applicant and used for the purchase of the wind turbine
248 and that was not included in the federal gross income of the applicant

249 shall be subtracted from the amount of the capitalized costs.

250 8. Any person claiming a green building tax credit shall file an
251 application with the department for a tax credit certificate. The
252 application shall contain all of the following:

- 253 (1) All applicable provisional green building certificates;
- 254 (2) All applicable eligibility certificates;
- 255 (3) A certificate of occupancy, if required;
- 256 (4) Documentation supporting actual allowable costs incurred;
- 257 and
- 258 (5) Any other information required by the department.

259 9. The department shall have the authority to reject or approve
260 any such application and shall promulgate rules governing the process
261 by which all applications and credits are submitted, approved, or
262 rejected. In the event the department approves the application, a green
263 building tax credit shall be issued by the department. The department
264 shall calculate the amount of the tax credit for which the person is
265 eligible and shall issue a green building tax credit certificate to the
266 person or notify the person in writing of its refusal to do so. Each
267 green building tax credit certificate issued under this section shall be
268 allowed for the year in which the credit is issued and for each of the
269 next four succeeding taxable years with respect to which the person
270 has obtained and filed an eligibility certificate pursuant to this section.

271 10. The green building tax credit certificate shall state all of the
272 following:

- 273 (1) The year in which the credit was issued for which the credit
274 may be claimed and a description of the property for which eligibility
275 was granted;
- 276 (2) The certificate's expiration date. Such tax credit certificate
277 shall apply only to property placed in service by such expiration
278 date. Such expiration date may be extended at the discretion of the
279 department, in order to avoid unwarranted hardship;
- 280 (3) The maximum amount of credit allowable for each of the five
281 taxable years for which the credit is allowed under this section; and
- 282 (4) The maximum amount of credit allowable in the aggregate for
283 all credits allowed under this section.

284 11. The amount of each green building tax credit shall not exceed
285 the limit set forth in the provisional green building certificate obtained

286 under this section. In no event shall the aggregate amount of all tax
287 credits allowed under this section exceed four million five hundred
288 thousand dollars per fiscal year.

289 12. If the department has reason to believe that an architect or
290 professional engineer, in making any eligibility certification under this
291 chapter, engaged in professional misconduct, then the department may
292 revoke a provisional green building certificate or green building tax
293 credit certificate issued under this chapter and report the misconduct
294 to the appropriate professional board or commission.

295 13. If a credit is allowed to a building owner under this chapter
296 with respect to property, and such property or an interest in such
297 property is sold, the credit for the period after the sale that would have
298 been allowable under this section to the prior owner had the property
299 not been sold shall be allowable to the new owner. Credit for the year
300 of sale shall be allocated between the parties on the basis of the
301 number of days during the calendar year that the property or interest
302 was held by each.

303 14. If a credit is allowed to a tenant under this section with
304 respect to property, and if such tenancy is terminated but such
305 property remains in use in the building by a successor tenant, the
306 credit for the period after such termination that would have been
307 allowable under this section to the prior tenant had the tenancy not
308 been terminated shall be allowable to the successor tenant. Credit for
309 the year of termination shall be allocated between the parties on the
310 basis of the number of days during the calendar year that the property
311 was used by each.

312 15. Each person shall, for any taxable year for which the green
313 building credit provided for under this section is claimed, maintain and
314 provide to the department upon request records of the following
315 information as applicable:

316 (1) Annual energy consumption for the green whole building,
317 base building, or tenant space;

318 (2) Annual results of air monitoring, if conducted;

319 (3) Annual confirmation that the green whole building, base
320 building, or tenant space continues to meet requirements regarding
321 smoking areas, if required;

322 (4) All written notification of tenants and requests to remedy any

323 **indoor air quality problems;**

324 **(5) Initial and annual results of validation of performance of**
325 **photovoltaic modules and fuel cells; and**

326 **(6) Certifications as to off-gassing and other contamination, if**
327 **conducted.**

328 **16. On or before July 1, 2010, the department shall submit a**
329 **written report to the governor and the general assembly regarding all**
330 **of the following:**

331 **(1) The number and value of provisional green building**
332 **certificates and green building tax credit certificates issued under this**
333 **section;**

334 **(2) The amount of the green building tax credits redeemed;**

335 **(3) The geographical distribution of the provisional green**
336 **building certificates and green building tax credit certificates issued**
337 **and redeemed; and**

338 **(4) Any other such available information the department may**
339 **deem meaningful and appropriate.**

340 **17. The department shall make recommendations regarding the**
341 **establishment of a permanent green building tax credit**
342 **program. Recommendations may include methods to enhance the**
343 **effectiveness, simplicity, or other aspects of the program.**

344 **18. The department, in consultation with the department of**
345 **natural resources' energy center, may promulgate rules adopting by**
346 **reference the LEED silver standard as adopted and published by the**
347 **United States green building council regarding standards for a**
348 **property to qualify as a green whole building, green base building, and**
349 **green tenant space, that is eligible for a green building tax credit under**
350 **this section.**

351 **19. The department, in consultation with the department of**
352 **natural resources' energy center, shall adopt by rule reasonable**
353 **minimum standards for fuel cells, photovoltaic modules, and wind**
354 **turbines that are eligible for a green building tax credit under this**
355 **chapter.**

356 **20. Nothing in this section shall prohibit the department from**
357 **consulting with various other state and federal agencies in order to**
358 **promulgate rules to administer the provisions of this section.**

359 **21. Any rule or portion of a rule, as that term is defined in**

360 **section 536.010, RSMo, that is created under the authority delegated in**
361 **this section shall become effective only if it complies with and is**
362 **subject to all of the provisions of chapter 536, RSMo, and, if applicable,**
363 **section 536.028, RSMo. This section and chapter 536, RSMo, are**
364 **nonseverable and if any of the powers vested with the general assembly**
365 **pursuant to chapter 536, RSMo, to review, to delay the effective date,**
366 **or to disapprove and annul a rule are subsequently held**
367 **unconstitutional, then the grant of rulemaking authority and any rule**
368 **proposed or adopted after August 28, 2006, shall be invalid and void.**

369 **22. The provisions of this section shall expire July 1, 2010.**

370 **23. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

371 **(1) The provisions of the new program authorized under this**
372 **section shall automatically sunset six years after the effective date of**
373 **this section unless reauthorized by an act of the general assembly; and**

374 **(2) If such program is reauthorized, the program authorized**
375 **under this section shall automatically sunset twelve years after the**
376 **effective date of the reauthorization of this section; and**

377 **(3) This section shall terminate on September first of the**
378 **calendar year immediately following the calendar year in which the**
379 **program authorized under this section is sunset.**

144.030. 1. There is hereby specifically exempted from the provisions of
2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be
4 made in commerce between this state and any other state of the United States,
5 or between this state and any foreign country, and any retail sale which the state
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the
7 United States of America, and such retail sales of tangible personal property
8 which the general assembly of the state of Missouri is prohibited from taxing or
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and
12 sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of
13 the tax levied, assessed or payable pursuant to the local sales tax law as defined
14 in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525
15 and 144.600 to 144.745:

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless

17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,
19 power, steam, electrical current or in furnishing water to be sold ultimately at
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs
21 which are to be sold ultimately in processed form at retail; or seed, limestone or
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold
24 ultimately in processed form at retail; economic poisons registered pursuant to
25 the provisions of the Missouri pesticide registration law (sections 281.220 to
26 281.310, RSMo) which are to be used in connection with the growth or production
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop
28 of which when harvested will be sold at retail or will be converted into foodstuffs
29 which are to be sold ultimately in processed form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used
31 in manufacturing, processing, compounding, mining, producing or fabricating
32 become a component part or ingredient of the new personal property resulting
33 from such manufacturing, processing, compounding, mining, producing or
34 fabricating and which new personal property is intended to be sold ultimately for
35 final use or consumption; and materials, including without limitation, gases and
36 manufactured goods, including without limitation, slagging materials and
37 firebrick, which are ultimately consumed in the manufacturing process by
38 blending, reacting or interacting with or by becoming, in whole or in part,
39 component parts or ingredients of steel products intended to be sold ultimately
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and
46 supplies solely required for the installation or construction of such replacement
47 machinery, equipment, and parts, used directly in manufacturing, mining,
48 fabricating or producing a product which is intended to be sold ultimately for
49 final use or consumption; and machinery and equipment, and the materials and
50 supplies required solely for the operation, installation or construction of such
51 machinery and equipment, purchased and used to establish new, or to replace or
52 expand existing, material recovery processing plants in this state. For the

53 purposes of this subdivision, a "material recovery processing plant" means a
54 facility that has as its primary purpose the recovery of materials into a useable
55 product or a different form which is used in producing a new product and shall
56 include a facility or equipment which are used exclusively for the collection of
57 recovered materials for delivery to a material recovery processing plant but shall
58 not include motor vehicles used on highways. For purposes of this section, the
59 terms "motor vehicle" and "highway" shall have the same meaning pursuant to
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a
61 manufacturing process or the use of a product previously recovered. The material
62 recovery processing plant shall qualify under the provisions of this section
63 regardless of ownership of the material being recovered;

64 (5) Machinery and equipment, and parts and the materials and supplies
65 solely required for the installation or construction of such machinery and
66 equipment, purchased and used to establish new or to expand existing
67 manufacturing, mining or fabricating plants in the state if such machinery and
68 equipment is used directly in manufacturing, mining or fabricating a product
69 which is intended to be sold ultimately for final use or consumption;

70 (6) Tangible personal property which is used exclusively in the
71 manufacturing, processing, modification or assembling of products sold to the
72 United States government or to any agency of the United States government;

73 (7) Animals or poultry used for breeding or feeding purposes;

74 (8) Newsprint, ink, computers, photosensitive paper and film, toner,
75 printing plates and other machinery, equipment, replacement parts and supplies
76 used in producing newspapers published for dissemination of news to the general
77 public;

78 (9) The rentals of films, records or any type of sound or picture
79 transcriptions for public commercial display;

80 (10) Pumping machinery and equipment used to propel products delivered
81 by pipelines engaged as common carriers;

82 (11) Railroad rolling stock for use in transporting persons or property in
83 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
84 thousand pounds or more or trailers used by common carriers, as defined in
85 section 390.020, RSMo, solely in the transportation of persons or property in
86 interstate commerce;

87 (12) Electrical energy used in the actual primary manufacture, processing,
88 compounding, mining or producing of a product, or electrical energy used in the

89 actual secondary processing or fabricating of the product, or a material recovery
90 processing plant as defined in subdivision (4) of this subsection, in facilities
91 owned or leased by the taxpayer, if the total cost of electrical energy so used
92 exceeds ten percent of the total cost of production, either primary or secondary,
93 exclusive of the cost of electrical energy so used or if the raw materials used in
94 such processing contain at least twenty-five percent recovered materials as
95 defined in section 260.200, RSMo. For purposes of this subdivision, "processing"
96 means any mode of treatment, act or series of acts performed upon materials to
97 transform and reduce them to a different state or thing, including treatment
98 necessary to maintain or preserve such processing by the producer at the
99 production facility;

100 (13) Anodes which are used or consumed in manufacturing, processing,
101 compounding, mining, producing or fabricating and which have a useful life of
102 less than one year;

103 (14) Machinery, equipment, appliances and devices purchased or leased
104 and used solely for the purpose of preventing, abating or monitoring air pollution,
105 and materials and supplies solely required for the installation, construction or
106 reconstruction of such machinery, equipment, appliances and devices, and so
107 certified as such by the director of the department of natural resources, except
108 that any action by the director pursuant to this subdivision may be appealed to
109 the air conservation commission which may uphold or reverse such action;

110 (15) Machinery, equipment, appliances and devices purchased or leased
111 and used solely for the purpose of preventing, abating or monitoring water
112 pollution, and materials and supplies solely required for the installation,
113 construction or reconstruction of such machinery, equipment, appliances and
114 devices, and so certified as such by the director of the department of natural
115 resources, except that any action by the director pursuant to this subdivision may
116 be appealed to the Missouri clean water commission which may uphold or reverse
117 such action;

118 (16) Tangible personal property purchased by a rural water district;

119 (17) All amounts paid or charged for admission or participation or other
120 fees paid by or other charges to individuals in or for any place of amusement,
121 entertainment or recreation, games or athletic events, including museums, fairs,
122 zoos and planetariums, owned or operated by a municipality or other political
123 subdivision where all the proceeds derived therefrom benefit the municipality or
124 other political subdivision and do not inure to any private person, firm, or

125 corporation;

126 (18) All sales of insulin and prosthetic or orthopedic devices as defined on
127 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
128 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
129 of that act, and also specifically including hearing aids and hearing aid supplies
130 and all sales of drugs which may be legally dispensed by a licensed pharmacist
131 only upon a lawful prescription of a practitioner licensed to administer those
132 items, including samples and materials used to manufacture samples which may
133 be dispensed by a practitioner authorized to dispense such samples and all sales
134 of medical oxygen, home respiratory equipment and accessories, hospital beds and
135 accessories and ambulatory aids, all sales of manual and powered wheelchairs,
136 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by
137 or on behalf of a person with one or more physical or mental disabilities to enable
138 them to function more independently, all sales of scooters, reading machines,
139 electronic print enlargers and magnifiers, electronic alternative and augmentative
140 communication devices, and items used solely to modify motor vehicles to permit
141 the use of such motor vehicles by individuals with disabilities or sales of
142 over-the-counter or nonprescription drugs to individuals with disabilities;

143 (19) All sales made by or to religious and charitable organizations and
144 institutions in their religious, charitable or educational functions and activities
145 and all sales made by or to all elementary and secondary schools operated at
146 public expense in their educational functions and activities;

147 (20) All sales of aircraft to common carriers for storage or for use in
148 interstate commerce and all sales made by or to not-for-profit civic, social, service
149 or fraternal organizations, including fraternal organizations which have been
150 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
151 1986 Internal Revenue Code, as amended, in their civic or charitable functions
152 and activities and all sales made to eleemosynary and penal institutions and
153 industries of the state, and all sales made to any private not-for-profit institution
154 of higher education not otherwise excluded pursuant to subdivision (19) of this
155 subsection or any institution of higher education supported by public funds, and
156 all sales made to a state relief agency in the exercise of relief functions and
157 activities;

158 (21) All ticket sales made by benevolent, scientific and educational
159 associations which are formed to foster, encourage, and promote progress and
160 improvement in the science of agriculture and in the raising and breeding of

161 animals, and by nonprofit summer theater organizations if such organizations are
162 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
163 and all admission charges and entry fees to the Missouri state fair or any fair
164 conducted by a county agricultural and mechanical society organized and
165 operated pursuant to sections 262.290 to 262.530, RSMo;

166 (22) All sales made to any private not-for-profit elementary or secondary
167 school, all sales of feed additives, medications or vaccines administered to
168 livestock or poultry in the production of food or fiber, all sales of pesticides used
169 in the production of crops, livestock or poultry for food or fiber, all sales of
170 bedding used in the production of livestock or poultry for food or fiber, all sales
171 of propane or natural gas, electricity or diesel fuel used exclusively for drying
172 agricultural crops, natural gas used in the primary manufacture or processing of
173 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and
174 electricity used by an eligible new generation cooperative or an eligible new
175 generation processing entity as defined in section 348.432, RSMo, and all sales
176 of farm machinery and equipment, other than airplanes, motor vehicles and
177 trailers. As used in this subdivision, the term "feed additives" means tangible
178 personal property which, when mixed with feed for livestock or poultry, is to be
179 used in the feeding of livestock or poultry. As used in this subdivision, the term
180 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and
181 other assorted pesticide carriers used to improve or enhance the effect of a
182 pesticide and the foam used to mark the application of pesticides and herbicides
183 for the production of crops, livestock or poultry. As used in this subdivision, the
184 term "farm machinery and equipment" means new or used farm tractors and such
185 other new or used farm machinery and equipment and repair or replacement
186 parts thereon, and supplies and lubricants used exclusively, solely, and directly
187 for producing crops, raising and feeding livestock, fish, poultry, pheasants,
188 chukar, quail, or for producing milk for ultimate sale at retail, including field
189 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which
190 is:

191 (a) Used exclusively for agricultural purposes;

192 (b) Used on land owned or leased for the purpose of producing farm
193 products; and

194 (c) Used directly in producing farm products to be sold ultimately in
195 processed form or otherwise at retail or in producing farm products to be fed to
196 livestock or poultry to be sold ultimately in processed form at retail;

197 (23) Except as otherwise provided in section 144.032, all sales of metered
198 water service, electricity, electrical current, natural, artificial or propane gas,
199 wood, coal or home heating oil for domestic use and in any city not within a
200 county, all sales of metered or unmetered water service for domestic use;

201 (a) "Domestic use" means that portion of metered water service,
202 electricity, electrical current, natural, artificial or propane gas, wood, coal or
203 home heating oil, and in any city not within a county, metered or unmetered
204 water service, which an individual occupant of a residential premises uses for
205 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
206 a single or master meter for residential apartments or condominiums, including
207 service for common areas and facilities and vacant units, shall be deemed to be
208 for domestic use. Each seller shall establish and maintain a system whereby
209 individual purchases are determined as exempt or nonexempt;

210 (b) Regulated utility sellers shall determine whether individual purchases
211 are exempt or nonexempt based upon the seller's utility service rate
212 classifications as contained in tariffs on file with and approved by the Missouri
213 public service commission. Sales and purchases made pursuant to the rate
214 classification "residential" and sales to and purchases made by or on behalf of the
215 occupants of residential apartments or condominiums through a single or master
216 meter, including service for common areas and facilities and vacant units, shall
217 be considered as sales made for domestic use and such sales shall be exempt from
218 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
219 classified as nondomestic use. The seller's utility service rate classification and
220 the provision of service thereunder shall be conclusive as to whether or not the
221 utility must charge sales tax;

222 (c) Each person making domestic use purchases of services or property
223 and who uses any portion of the services or property so purchased for a
224 nondomestic use shall, by the fifteenth day of the fourth month following the year
225 of purchase, and without assessment, notice or demand, file a return and pay
226 sales tax on that portion of nondomestic purchases. Each person making
227 nondomestic purchases of services or property and who uses any portion of the
228 services or property so purchased for domestic use, and each person making
229 domestic purchases on behalf of occupants of residential apartments or
230 condominiums through a single or master meter, including service for common
231 areas and facilities and vacant units, under a nonresidential utility service rate
232 classification may, between the first day of the first month and the fifteenth day

233 of the fourth month following the year of purchase, apply for credit or refund to
234 the director of revenue and the director shall give credit or make refund for taxes
235 paid on the domestic use portion of the purchase. The person making such
236 purchases on behalf of occupants of residential apartments or condominiums shall
237 have standing to apply to the director of revenue for such credit or refund;

238 (24) All sales of handicraft items made by the seller or the seller's spouse
239 if the seller or the seller's spouse is at least sixty-five years of age, and if the total
240 gross proceeds from such sales do not constitute a majority of the annual gross
241 income of the seller;

242 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,
243 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
244 States Code. The director of revenue shall promulgate rules pursuant to chapter
245 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

246 (26) Sales of fuel consumed or used in the operation of ships, barges, or
247 waterborne vessels which are used primarily in or for the transportation of
248 property or cargo, or the conveyance of persons for hire, on navigable rivers
249 bordering on or located in part in this state, if such fuel is delivered by the seller
250 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
251 river;

252 (27) All sales made to an interstate compact agency created pursuant to
253 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the
254 exercise of the functions and activities of such agency as provided pursuant to the
255 compact;

256 (28) Computers, computer software and computer security systems
257 purchased for use by architectural or engineering firms headquartered in this
258 state. For the purposes of this subdivision, "headquartered in this state" means
259 the office for the administrative management of at least four integrated facilities
260 operated by the taxpayer is located in the state of Missouri;

261 (29) All livestock sales when either the seller is engaged in the growing,
262 producing or feeding of such livestock, or the seller is engaged in the business of
263 buying and selling, bartering or leasing of such livestock;

264 (30) All sales of barges which are to be used primarily in the
265 transportation of property or cargo on interstate waterways;

266 (31) Electrical energy or gas, whether natural, artificial or propane, water,
267 or other utilities which are ultimately consumed in connection with the
268 manufacturing of cellular glass products or in any material recovery processing

269 plant as defined in subdivision (4) of subsection 2 of this section;

270 (32) Notwithstanding other provisions of law to the contrary, all sales of
271 pesticides or herbicides used in the production of crops, aquaculture, livestock or
272 poultry;

273 (33) Tangible personal property purchased for use or consumption directly
274 or exclusively in the research and development of prescription pharmaceuticals
275 consumed by humans or animals;

276 (34) All sales of grain bins for storage of grain for resale;

277 (35) All sales of feed which are developed for and used in the feeding of
278 pets owned by a commercial breeder when such sales are made to a commercial
279 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections
280 273.325 to 273.357, RSMo;

281 (36) All purchases by a contractor on behalf of an entity located in another
282 state, provided that the entity is authorized to issue a certificate of exemption for
283 purchases to a contractor under the provisions of that state's laws. For purposes
284 of this subdivision, the term "certificate of exemption" shall mean any document
285 evidencing that the entity is exempt from sales and use taxes on purchases
286 pursuant to the laws of the state in which the entity is located. Any contractor
287 making purchases on behalf of such entity shall maintain a copy of the entity's
288 exemption certificate as evidence of the exemption. If the exemption certificate
289 issued by the exempt entity to the contractor is later determined by the director
290 of revenue to be invalid for any reason and the contractor has accepted the
291 certificate in good faith, neither the contractor or the exempt entity shall be liable
292 for the payment of any taxes, interest and penalty due as the result of use of the
293 invalid exemption certificate. Materials shall be exempt from all state and local
294 sales and use taxes when purchased by a contractor for the purpose of fabricating
295 tangible personal property which is used in fulfilling a contract for the purpose
296 of constructing, repairing or remodeling facilities for the following:

297 (a) An exempt entity located in this state, if the entity is one of those
298 entities able to issue project exemption certificates in accordance with the
299 provisions of section 144.062; or

300 (b) An exempt entity located outside the state if the exempt entity is
301 authorized to issue an exemption certificate to contractors in accordance with the
302 provisions of that state's law and the applicable provisions of this section;

303 (37) Tangible personal property purchased for use or consumption directly
304 or exclusively in research or experimentation activities performed by life science

305 companies and so certified as such by the director of the department of economic
306 development or the director's designees; except that, the total amount of
307 exemptions certified pursuant to this section shall not exceed one million three
308 hundred thousand dollars in state and local taxes per fiscal year. For purposes
309 of this subdivision, the term "life science companies" means companies whose
310 primary research activities are in agriculture, pharmaceuticals, biomedical or food
311 ingredients, and whose North American Industry Classification System (NAICS)
312 Codes fall under industry 541710 (biotech research or development laboratories),
313 621511 (medical laboratories) or 541940 (veterinary services). The exemption
314 provided by this subdivision shall expire on June 30, 2003;

315 (38) All sales or other transfers of tangible personal property to a lessor
316 who leases the property under a lease of one year or longer executed or in effect
317 at the time of the sale or other transfer to an interstate compact agency created
318 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
319 RSMo; and

320 (39) Sales of tickets to any collegiate athletic championship event that is
321 held in a facility owned or operated by a governmental authority or commission,
322 a quasi-governmental agency, a state university or college or by the state or any
323 political subdivision thereof, including a municipality, and that is played on a
324 neutral site and may reasonably be played at a site located outside the state of
325 Missouri. For purposes of this subdivision, "neutral site" means any site that is
326 not located on the campus of a conference member institution participating in the
327 event.

328 **(40) The sale price of selected products that have received the**
329 **Energy Star Label developed by the United States Environmental**
330 **Protection Agency that have been purchased in this state after August**
331 **28, 2006, the products eligible for an exemption under this subsection**
332 **shall be determined by the department of revenue, in consultation with**
333 **the department of natural resources;**

334 (41) All sales of tangible property used in energy conversion,
335 thermal-efficiency improvements, and the conversion of solid waste to
336 energy. Examples of such tangible property include, but shall not be
337 limited to, solar-thermal systems, photovoltaic systems, wind, biomass,
338 landfill gas, and waste recovery systems. Eligible property shall be
339 certified by the department prior to any exemptions being made and in
340 a manner consistent with department rule.

386.269. 1. To encourage the energy efficiency of electrical
2 generation facilities in this state, a fossil fuel electric power generation
3 facility constructed or significantly expanded in this state after August
4 28, 2006, shall utilize cogeneration systems to recover energy otherwise
5 lost. The public service commission shall adopt by rule uniform
6 standards for the interconnection of cogeneration systems to the utility
7 grid and local distribution facilities.

8 2. (1) For the purpose of this section, "cogeneration" is the
9 production of two or more usable energy products from a single fuel or
10 energy source;

11 (2) For the purpose of this section, "fossil fuel electric power
12 generation facility" means a power generation facility that uses coal,
13 petroleum, wood, or natural gas to generate electricity.

393.318. The public service commission shall, no later than
2 January 1, 2008, promulgate rules governing the process by which any
3 regulated supplier of electric energy develops and implements a rebate
4 program offered to any customer who switches from an electric hot
5 water heater to a solar hot water heater. Such a program shall be
6 voluntary for any regulated supplier of electric energy and once
7 started, may be discontinued in a manner prescribed by commission
8 rule.

393.320. 1. For the purpose of this section, the following terms
2 shall mean:

3 (1) "Commission", the public service commission;

4 (2) "Department", the department of natural resources;

5 (3) "Renewable sources of energy", energy obtained from sources
6 that are essentially inexhaustible. Sources of energy that shall be
7 considered renewable for purposes of this section shall include but not
8 be limited to the following:

9 (a) Wind power;

10 (b) Solar power, including but not limited to photovoltaic cells,
11 concentrating solar power technologies, and low temperature solar
12 collectors;

13 (c) Hydrogen power;

14 (d) Low-head hydropower; and

15 (e) Biomass, including but not limited to any plant-derived
16 organic matter available on a renewable basis, including dedicated

17 energy crops and trees, agricultural food and feed crops, agricultural
18 crop wastes and residues, wood wastes and residues, aquatic plants,
19 animal wastes, biogas collection from landfills or wastewater treatment
20 plants, and other waste materials.

21 2. All suppliers of electrical energy in the state shall comply with
22 the following renewable sources of energy directives in a manner
23 prescribed by the commission:

24 (1) At least three percent of all energy produced or utilized in the
25 state shall originate from renewable sources of energy by the year 2010;

26 (2) At least five percent of all energy produced or utilized in the
27 state shall originate from renewable sources of energy by the year 2015;
28 and

29 (3) At least ten percent of all energy produced or utilized in the
30 state shall originate from renewable sources of energy by the year 2020.

31 3. Every supplier of electrical energy in the state may utilize
32 renewable energy credits, acquired by self-generation, purchase, or
33 trade, to satisfy the renewable sources of energy requirements
34 established in subsection 2 of this section, provided such credits are
35 approved by the commission in a manner prescribed by commission
36 rule.

37 4. The commission shall work with the department of natural
38 resources to establish a program for trading renewable energy
39 credits. Any supplier of electrical energy in the state that provides
40 renewable energy to its retail customers in excess of the renewable
41 sources of energy goals established in subsection 2 of this section may
42 sell or otherwise transfer to any other supplier of electrical energy in
43 the state excess credits at a price negotiated between the two parties
44 and approved by the commission.

45 5. Electricity suppliers who do not comply with the renewable
46 sources of energy directives established in subsection 2 of this section
47 shall forfeit for each kilowatt-hour deficiency an amount equal to three
48 times the average market cost of a renewable energy credit during the
49 compliance period. Amounts forfeited under this subsection shall be
50 remitted back to the commission and used to purchase renewable energy
51 credits necessary for compliance.

52 6. The public service commission shall work with the department
53 of natural resources to promulgate rules to administer the provisions of

54 **this section. Any rule or portion of a rule, as that term is defined in**
55 **section 536.010, RSMo, that is created under the authority delegated in**
56 **this section shall become effective only if it complies with and is subject**
57 **to all of the provisions of chapter 536, RSMo, and, if applicable, section**
58 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
59 **and if any of the powers vested with the general assembly pursuant to**
60 **chapter 536, RSMo, to review, to delay the effective date, or to**
61 **disapprove and annul a rule are subsequently held unconstitutional,**
62 **then the grant of rulemaking authority and any rule proposed or**
63 **adopted after August 28, 2006, shall be invalid and void.**

640.150. 1. The department of natural resources shall be vested with the
2 powers and duties prescribed by law and shall have the power to carry out the
3 following activities:

4 (1) Assessing the impact of national energy policies on this state's supply
5 and use of energy and this state's public health, safety and welfare;

6 (2) Consulting and cooperating with all state and federal governmental
7 agencies, departments, boards and commissions and all other interested agencies
8 and institutions, governmental and nongovernmental, public and private, on
9 matters of energy research and development, management, conservation and
10 distribution;

11 (3) The monitoring and analyzing of all federal, state, local and voluntarily
12 disclosed private sector energy research projects and voluntarily disclosed private
13 sector energy related data and information concerning supply and consumption,
14 in order to plan for the future energy needs of this state. All information gathered
15 shall be maintained, revised and updated as an aid to any interested person,
16 foundation or other organization, public or private;

17 (4) Analyzing the potential for increased utilization of coal, nuclear, solar,
18 resource recovery and reuse, energy efficient technologies and other energy
19 alternatives, and making recommendations for the expanded use of alternate
20 energy sources and technologies;

21 (5) The development and promotion of state energy conservation programs,
22 including:

23 (a) Public education and information in energy related areas, **including**
24 **the provision of free energy management and energy conservation**
25 **training to recipients of utility assistance under sections 660.100 to**
26 **660.136, RSMo. The department shall promulgate rules governing the**

27 **process by which such training is offered and implemented;**

28 (b) Developing energy efficiency standards for agricultural and industrial
29 energy use and for new and existing buildings, to be promoted through technical
30 assistance efforts by cooperative arrangements with interested public, business
31 and civic groups and by cooperating with political subdivisions of this state;

32 (c) Preparing plans for reducing energy use in the event of an energy or
33 other resource supply emergency.

34 2. No funds shall be expended to implement the provisions of this section
35 until funds are specifically appropriated for that purpose.

640.151. 1. The "Missouri Center for Advanced Renewable Energy"
2 **is established within the department of natural resources' energy center**
3 **to improve the economic, environmental performance and feasibility of**
4 **renewable energy products and production in the state.**

5 2. The center shall conduct and sponsor research for cellulose-
6 based ethanol, advanced soy diesel, methane recapture, and renewable
7 energy conversion systems that will reduce the dependence of Missouri
8 residents on nonrenewable energy.

9 3. The center shall be administered by the director for the
10 department of natural resources' energy center, who shall employ
11 necessary research and support staff to satisfy the center's objectives
12 described in subsection 2 of this section. No more than one hundred and
13 fifty thousand dollars of the funds made available by the general
14 assembly through appropriations in any one fiscal year shall be spent
15 on salaries and benefits of the center's employees; all remaining monies
16 appropriated by the general assembly shall be used to satisfy the
17 center's objectives described in subsection 2 of this section.

18 4. The provisions of this section shall not apply to section 23.253,
19 RSMo, of the Missouri sunshine act.

640.690. 1. The department of natural resources shall establish
2 **within the energy set-aside program fund, as it is established in section**
3 **640.665, a subaccount to be called the "clean energy assistance program"**
4 **to encourage the development, manufacture, commercialization,**
5 **deployment, and installation of renewable energy technologies and the**
6 **establishment, modernization, and expansion of facilities producing**
7 **renewable energy or energy efficient products or technology in this**
8 **state. The department may award financial assistance to eligible**
9 **persons in the form of a loan, loan guarantee, grant, or combination of**

10 financial assistance. The board shall not award more than fifty
11 thousand dollars per job created.

12 2. The public service commission shall, beginning July 1, 2008,
13 assess a charge of not less than one-half of one mill per kilowatt hour
14 charged to each end use customer of electric services in this state. All
15 revenues from such charges shall be deposited into the clean energy
16 assistance program subaccount within the energy set-aside program, as
17 it is established in section 640.665, and used exclusively for the purposes
18 described in subsection 1 of this section.

19 3. A person is eligible to apply for assistance under this section
20 if the person satisfies all of the following requirements:

21 (1) The existing or proposed facility for producing renewable
22 energy or energy efficient products or technology is located in this
23 state;

24 (2) The person applies to the department in a manner and
25 according to procedures required by the board; and

26 (3) The person submits a business plan that demonstrates
27 managerial and technical expertise.

28 4. The department shall select an applicant to receive financial
29 assistance based on the following criteria:

30 (1) The probability of actual or potential improvements to the
31 environment, including but not limited to reductions in emissions of
32 greenhouse gases from the use of the product or technology by the
33 facility owner or the customers of the facility owner;

34 (2) The number and quality of jobs created or retained that
35 provide living wages at or above the state average and eighty percent
36 of the costs of comprehensive health insurance;

37 (3) The use of natural resources from this state other than coal;

38 (4) The use of research or technology developed in this state by
39 a college, university, business, or governmental agency in this state;

40 (5) The potential research value or potential for further
41 technological development to fund the business in the future; and

42 (6) The feasibility of the existing or proposed facility to remain
43 a viable enterprise and the degree to which the facility will increase the
44 utilization of renewable energy or energy efficient products or
45 technology.

46 5. The department shall not approve the awarding of financial

47 assistance for the conversion of motor fuel pumps from gasoline to E-85
48 in an amount of more than ten thousand dollars per fuel pump or twenty
49 thousand dollars per retail fueling station.

50 6. The provisions of this section shall not apply to section 23.253,
51 RSMo, of the Missouri sunshine act.

640.692. There is hereby created in the state treasury the "Clean
2 Energy Financial Assistance Fund", which shall consist of moneys
3 appropriated from the general revenue fund, charges assessed by the
4 public service commission under subsection 2 of section 640.690, and any
5 other moneys available to and obtained or accepted by the department
6 from the federal government or private sources for placement in the
7 fund. The state treasurer shall be custodian of the fund and shall
8 approve disbursements from the fund in accordance with sections 30.170
9 and 30.180, RSMo. Upon appropriation, money in the fund shall be used
10 solely for the administration of this act. Notwithstanding the provisions
11 of section 33.080, RSMo, to the contrary, any moneys remaining in the
12 fund at the end of the biennium shall not revert to the credit of the
13 general revenue fund. The state treasurer shall invest moneys in the
14 fund in the same manner as other funds are invested. Any interest and
15 moneys earned on such investments shall be credited to the fund.

640.693. 1. The department of natural resources' energy center
2 shall, no later than January 1, 2008, establish a program to provide
3 financial and technical assistance to communities that submit a
4 community energy conservation plan to reduce consumption of natural
5 gas and electricity in their community.

6 2. Plans submitted to the energy center may include but shall not
7 be limited to the following:

8 (1) Education assistance with energy conservation for residents
9 and local businesses;

10 (2) Financial assistance with energy conservation for residents
11 and local businesses; and

12 (3) Physical conservation improvements to public property of the
13 community.

14 3. The department of natural resources shall promulgate rules
15 governing the process by which these plans are submitted, modified,
16 accepted, rejected and maintained. Any rule or portion of a rule, as that
17 term is defined in section 536.010, RSMo, that is created under the

18 authority delegated in this section shall become effective only if it
19 complies with and is subject to all of the provisions of chapter 536,
20 RSMo, and, if applicable, section 536.028, RSMo. This section and
21 chapter 536, RSMo, are nonseverable and if any of the powers vested
22 with the general assembly pursuant to chapter 536, RSMo, to review, to
23 delay the effective date, or to disapprove and annul a rule are
24 subsequently held unconstitutional, then the grant of rulemaking
25 authority and any rule proposed or adopted after August 28, 2006, shall
26 be invalid and void.

640.694. 1. There is hereby established the "Climate Change
2 Advisory Commission". The commission shall consist of twenty-two
3 members, each of whom shall be appointed by the governor with the
4 advice and consent of the senate. The membership of the commission
5 shall be made up of the director of the department of agriculture or his
6 designee, the director of the department of natural resources or his
7 designee, and two representatives from each of the following sectors:

- 8 (1) Electric power generation;
- 9 (2) Fossil fuel industry;
- 10 (3) Manufacturing industry;
- 11 (4) Mining and excavation;
- 12 (5) Forestry;
- 13 (6) Agriculture;
- 14 (7) Construction;
- 15 (8) Tourism;
- 16 (9) Health care;
- 17 (10) Non-governmental environmental organizations; and
- 18 (11) University environmental research.

19 2. Members of the commission shall not be compensated for their
20 services, but they shall be reimbursed for actual and necessary expenses
21 incurred in the performance of their duties. The members of the
22 commission shall meet within thirty days of their creation and elect one
23 member as chairman and another as vice chairman.

24 3. The specific duties of the climate change advisory commission
25 shall include, but not be limited to, the following:

- 26 (1) Collect information on the various greenhouse gas emissions
27 in the state and their sources;
- 28 (2) Monitor climatic changes in the state that may affect persons,

29 animals, plants, industry, or the state's economy;

30 (3) Evaluate existing incentives and programs that encourage the
31 reduction of greenhouse gas emissions in the state;

32 (4) Create new incentives and programs to reduce greenhouse gas
33 emissions in the state;

34 (5) Make recommendations to the legislature on programs and
35 incentives that satisfy both short- and long-term strategies for reducing
36 the greenhouse gas emissions in the state.

37 4. The commission, after appropriate study, shall adopt a
38 comprehensive state climate change guide consisting of data, policy
39 statements, objectives, standards, and programs designed to inform and
40 ultimately to reduce the greenhouse gas emissions in the state. The
41 guide shall provide a plan to coordinate and allocate public and private
42 resources to the development of such programs. The commission shall
43 submit the guide to the general assembly by December 31, 2010.

44 5. This section shall expire on January 1, 2010.

640.760. As used in sections 640.760 to 640.784 and section 643.622,
2 RSMo, unless the context otherwise requires, the following terms shall
3 mean:

4 (1) "Carbon sequestration results", the participant's applicable
5 data on the removal of carbon dioxide from the atmosphere by sinks
6 resulting from any of the following:

7 (a) Direct human-induced land use change or forestry activities
8 in this state;

9 (b) Additional human-induced activities in this state related to
10 removal by sinks in land use change and forestry categories;

11 (c) Additional human-induced activities in this state related to
12 removal by sinks in agricultural soils;

13 (d) Additional human-induced activities in this state related to
14 removals by sinks in products in use from harvested timber or
15 agricultural crops;

16 (e) Other human-induced activities in this state related to
17 removals by sinks;

18 (2) "Certification", the determination of whether a given
19 participant's carbon sequestration result has met a minimum quality
20 standard and complied with an appropriate set of approved procedures
21 and protocols for submitting carbon sequestration information;

- 22 (3) "Department", the department of natural resources;
- 23 (4) "Director", the director of the department of natural resources;
- 24 (5) "Forest", lands that support, or can support, at least ten
25 percent tree canopy cover and that allow for management of one or
26 more forest resources including but not limited to timber, fish and
27 wildlife, biodiversity, water quality, air quality, soil conservation,
28 recreation, aesthetics, or other benefits;
- 29 (6) "Greenhouse gases", carbon dioxide, methane, nitrous oxide,
30 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;
- 31 (7) "Native forest", a forest type, natural or artificially
32 regenerated, composed of any one or more tree species identified as
33 native to this state by the department including without limitation
34 improved stock of such tree species developed through breeding
35 programs;
- 36 (8) "Participant" or "registry participant", a registrant of carbon
37 sequestration results with the registry;
- 38 (9) "Registry", the carbon sequestration registry established by
39 section 640.762;
- 40 (10) "Sink", an ecosystem or crop or product thereof that absorbs
41 or has absorbed carbon, thereby removing it from the atmosphere and
42 offsetting emissions of carbon dioxide.

640.762. 1. There is established within the department a carbon
2 sequestration registry for the purposes described in section 640.764.

3 2. The department may contract with another agency or designate
4 a third party to operate and maintain a statewide uniform automated
5 electronic information system for purposes of the carbon sequestration
6 registry. In furtherance of such purpose, the department shall have the
7 ability to enter into contracts with any person that the department
8 deems necessary to establish and maintain the registry.

9 3. The provisions of sections 640.760 to 640.784 shall not apply to
10 section 23.253, RSMo, of the Missouri sunshine act.

640.764. The purpose of the carbon sequestration registry shall be
2 to do all of the following:

3 (1) Encourage voluntary actions to reduce greenhouse gas
4 emissions;

5 (2) Enable participants to voluntarily record carbon
6 sequestrations made after August 28, 2006, or such other beginning date

7 as may be established by rule of the department, in a consistent format
8 that is certified;

9 (3) Ensure that sources in the state receive appropriate
10 consideration for certified carbon sequestration results under any
11 future federal or international regulatory regime relating to greenhouse
12 gas emissions;

13 (4) Recognize, publicize, and promote participants in the registry;
14 and

15 (5) Recruit broad participation in the process from all economic
16 sectors and regions of the state.

640.766. 1. To implement and maintain the registry established
2 under section 640.762, the department shall have the following powers
3 and duties in addition to those otherwise provided by law:

4 (1) To establish such registration and transaction fees to be
5 charged and collected by the department or the department's designee;

6 (2) To manage, control, and direct such funds as are remitted to
7 the department and the expenditures made therefrom;

8 (3) To distribute the funds at the discretion of the department in
9 such manner and subject to such terms and limitations as the
10 department in its discretion shall determine will best further the public
11 purpose of the registry; and

12 (4) To exercise all other powers necessary for maintenance of the
13 electronic information system for the registry.

14 2. The department shall adopt rules specifying acceptable types
15 of carbon sequestration results and providing procedures and protocols
16 for the monitoring, estimating, calculating, reporting, and certification
17 of carbon sequestration results for purposes of participation in the
18 registry.

19 (1) Procedures and protocols relative to forestry activities that
20 are reported as a participant's carbon sequestration results described
21 under paragraph (a) of subdivision (1) of section 640.760, shall require,
22 at a minimum, that those forestry activities meet all of the following
23 criteria in order to be reported as any part of a participant's carbon
24 sequestration results:

25 (a) Forestry activities shall be based on forest management
26 practices within a defined project area that meet or exceed the best
27 management practices for forestry as published by the department and

28 that are not the subject of any ongoing remediation or penalty under
29 judicial or administrative judgment or order for violation of any
30 applicable requirements of federal, state, or local land use laws,
31 regulations, or ordinances. Best management practices of the
32 department and federal, state, or local land use laws, regulations, or
33 ordinances shall be those in effect each time a participant registers a
34 defined project area in the registry;

35 (b) Forestry activities reported as carbon sequestration results
36 shall reflect the amount of time that net carbon gains are stored; and

37 (c) Forestry activities shall maintain and promote native forests;

38 (2) Procedures and protocols relative to sinks in agricultural soils
39 that are reported as a participant's carbon sequestration results
40 described under paragraph (c) of subdivision (1) of section 640.760 shall
41 be adopted by the department in accordance with the recommendation
42 of the secretary of agriculture;

43 (3) The department shall consider the availability and suitability
44 of simplified techniques and tools when adopting procedures and
45 protocols for the certification of carbon sequestration results; and

46 (4) The procedures and protocols adopted by the department shall
47 include a uniform format for reporting carbon sequestration results to
48 facilitate their recognition in any future regulatory regime.

49 3. The department shall qualify third-party organizations that
50 have the capability to certify reported baseline carbon sequestration
51 results and that are capable of certifying the participant-reported
52 results as provided in this section.

53 4. The department shall encourage organizations and individuals
54 from various sectors of the state's economy, and those from various
55 geographic regions of the state, to report carbon sequestration results.

640.768. 1. The procedures and protocols for monitoring,
2 estimating, calculating, reporting, and certifying carbon sequestration
3 results established by, or approved under, this section shall be the only
4 procedures and protocols recognized by the state for the purposes of the
5 registry as described in section 640.762.

6 2. Procedures and protocols adopted under section 640.766 shall
7 not be interpreted or construed as a condition for any lease, permit,
8 license, certificate, or other entitlement for an ongoing use of forest
9 land.

640.770. Participation in the registry shall be voluntary, and
2 participants may withdraw at any time.

640.772. 1. Participants shall initially report their certified
2 carbon sequestration results for the most recent year for which the
3 participants have complete data. Participants that have complete data
4 for earlier years that can be certified may establish their baseline as
5 any year beginning on or after August 28, 2006, or such other beginning
6 date as may be established by rule of the department. After establishing
7 baseline results, participants shall report the certified carbon
8 sequestration results in each subsequent year in order to show changes
9 with respect to the participant's baseline year. Participants may report
10 carbon sequestration results without establishing a baseline for such
11 results or for emissions. Certified carbon sequestration results reported
12 to the registry by a participant shall be credited in carbon mass units
13 to an account established for the participant in the registry.

14 2. Registry credits for certified carbon sequestration results may
15 be sold, purchased, or otherwise transferred in whole or in part without
16 any regard to or effect on or being affected by ownership of other
17 personal property or any real property, and such credits may be
18 retained in whole or in part without any regard to or effect on or being
19 affected by any sale, purchase, or other transfer of other personal
20 property or any real property.

21 3. In addition to annual reports submitted under subsection 1 of
22 this section, participants shall report to the registry any sales,
23 purchases, or other transfers of registry credits for certified carbon
24 sequestration results, in whole or in part, within ten days after the
25 completion of such transaction, and participants' registry accounts shall
26 be updated to reflect such transfers.

27 4. The basic unit of participation in the registry shall be a natural
28 person or a legal entity in its entirety such as a corporation or other
29 legally constituted body, a city, county, or state agency.

30 5. Reports to the registry by participants shall be filed with the
31 department or its designated agent.

640.774. To support the estimation, calculation, reporting, and
2 certification of carbon sequestration results in a consistent format, the
3 department shall adopt standardized forms that all participants shall
4 use to calculate, report, and certify emissions results.

640.776. 1. Participants registering baseline carbon sequestration results in the registry shall provide certification of their methodologies and results as required by the department. The department may, upon recommendation of the director, following a public hearing, adopt simplified procedures to certify carbon sequestration results as appropriate. Participants shall follow department-approved procedures and protocols in determining carbon sequestration results and supply the quantity and quality of information necessary to allow an independent ex post certification of the baseline results reported under this program.

2. The department shall provide a list of third-party organizations recognized as competent to certify carbon sequestration results and approved under section 640.778. The department shall reopen the qualification process periodically in order for new organizations to be added to the approved list.

3. Where required for certification, the third-party organizations conducting the certification shall do all of the following:

(1) Evaluate whether the participant has a program, consistent with department-approved procedures and protocols, in place for preparation and submittal of the information reported under this section;

(2) Check, during certification, the reasonableness of the carbon sequestration information being reported for a random sample of estimates or calculations; and

(3) Summarize its review in a report to the board of directors, or equivalent governing body, of the participating legal entity or to the participating natural person, attesting to the existence of a program that is consistent with department-approved procedures and protocols and the reasonableness of the reported carbon sequestration results and noting any exceptions, omissions, limitations, or other qualifications to their representations.

4. In conducting certification for a participant under this section, the approved organization shall schedule any meeting or meetings with the participant with a minimum of one week's notice at one or more representative locations and allow the participant to control property access. The meetings shall be conducted in accordance with a protocol that is agreed upon in advance by the participant and the approved

38 organization. The approved organization shall not perform property
39 inspection, direct measurement, monitoring, or testing unless
40 authorized by the participant.

41 5. To ensure the integrity and constant improvement of the
42 registry program, the department shall perform on a random basis an
43 occasional review and evaluation of participants' carbon sequestration
44 reporting, certifications, and the reasonableness of the information
45 being reported for analysis of estimates or calculations. The director
46 shall report any findings in writing. The director shall include a
47 summary of these findings in the biennial report to the governor and the
48 general assembly required by section 640.780.

640.778. 1. The department shall develop a process for qualifying
2 third-party organizations recognized by the state as competent to certify
3 the carbon sequestration results of the types of natural persons or legal
4 entities that participate in the registry, by doing all of the following:

5 (1) Developing a list of the minimum technical and organizational
6 capabilities and other qualification standards that approved third-party
7 organizations shall meet. Those qualifications shall include the ability
8 to sign an opinion letter, for which they may be held financially at risk,
9 and certifying the participant-reported carbon sequestration results as
10 provided in this section. Such capabilities and standards for third-party
11 organizations related to certification of carbon sequestration results
12 achieved by sinks in agricultural soils described under paragraph (c) of
13 subdivision (1) of section 640.670 shall be adopted by the department in
14 accordance with the recommendations of the secretary of agriculture;

15 (2) Publicizing an applications process or otherwise encouraging
16 interested organizations to submit their qualifications for review;

17 (3) Evaluating applicant organizations according to the list of
18 qualifications described in subdivision (1) of subsection 1 of this section;

19 (4) Determining specific third-party organizations as qualified to
20 certify participants' actual carbon sequestration results in accordance
21 with this section; and

22 (5) Periodically updating the list of approved third-party
23 organizations by doing any of the following:

24 (a) Reviewing the capabilities of approved organizations;

25 (b) Reviewing applications of organizations seeking to become
26 approved; and

27 (c) Determining specific organizations to be added to the
28 approved list and specific organizations no longer qualified to perform
29 the duties of this section.

30 2. The department shall occasionally, and on a random basis,
31 provide for department employees to accompany third-party
32 organizations on scheduled visits to observe and evaluate, during any
33 certification visit, both the following:

34 (1) Whether the participant has a program, consistent with
35 department-approved procedures and protocols, in place for the
36 preparation and submittal of the information required under this
37 section; and

38 (2) The reasonableness of the carbon sequestration information
39 being reported for a sample of estimates or calculations.

40 3. The department shall review future international or federal
41 programs related to greenhouse gas emissions and make reasonable
42 efforts to promote consistency between the state program and these
43 programs and to reduce the reporting burden on participants.

 640.780. Not later than July 1, 2008, and biennially thereafter, the
2 director shall report to the governor and the general assembly on the
3 number of participants in the registry, the amounts of carbon
4 sequestered by those participants, and ways to make the registry more
5 workable for participants that are consistent with the goals and intent
6 of sections 640.760 to 640.784.

 640.782. All fees and charges collected by the department
2 pursuant to sections 640.760 to 640.784 are appropriated to the
3 department to offset the costs of administering and maintaining the
4 electronic information system for the registry.

 640.784. Any rule or portion of a rule, as that term is defined in
2 section 536.010, RSMo, that is created under the authority delegated in
3 this section shall become effective only if it complies with and is subject
4 to all of the provisions of chapter 536, RSMo, and, if applicable, section
5 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
6 and if any of the powers vested with the general assembly pursuant to
7 chapter 536, RSMo, to review, to delay the effective date, or to
8 disapprove and annul a rule are subsequently held unconstitutional,
9 then the grant of rulemaking authority and any rule proposed or
10 adopted after August 28, 2006, shall be invalid and void.

643.622. 1. A plan shall be created to assist in the reduction of
2 carbon dioxide emissions through technologies to capture carbon
3 dioxide for later use or sequestration, offset carbon dioxide emissions,
4 or plan for the replacement of fossil fuels by all of the following:

5 (1) All electric utilities in this state;

6 (2) All fossil fuel electric generation plants generating more than
7 ten megawatts of electricity in this state; and

8 (3) All retail dealers of motor vehicle fuel with ten or more retail
9 stations in this state.

10 2. Each plan created under this subsection shall be submitted to
11 and approved by the department.

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Bill

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